

ESTTA Tracking number: **ESTTA67455**

Filing date: **02/21/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Hardy Wine Company Limited
Granted to Date of previous extension	02/18/2006
Address	Reynell Road Reynella, SA 5161 AUSTRALIA
Attorney information	Stephen L. Baker Baker and Rannells PA 626 North Thompson street Raritan, NJ 08869 UNITED STATES s.baker@br-tmlaw.com,a.korar@br-tmlaw.com,n.friedman@br-tmlaw.com, D.Comunale@br-tmlaw.com Phone:908-722-5640

Applicant Information

Application No	78589830	Publication date	12/20/2005
Opposition Filing Date	02/21/2006	Opposition Period Ends	02/18/2006
Applicant	Watts Transportation LLC. P.O. Box 358 Walnut Grove, CA 95690 UNITED STATES		

Goods/Services Affected by Opposition

Class 033. All goods and sevicees in the class are opposed, namely: WINE

Attachments	Notice of Opp. 2-21-06.pdf (3 pages)
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Signature	/Stephen L. Baker/
Name	Stephen L. Baker
Date	02/21/2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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HARDY WINE COMPANY LIMITED,

Opposer,

Mark: DANCING VINE

v.

Ser. No.: 78589830

WATTS TRANSPORTATION LLC,

Filed: March 17, 2005

Applicant.
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NOTICE OF OPPOSITION
PURSUANT TO 15 U.S.C. § 1063

In the matter of trademark application Serial No. 78589830 filed by Applicant, Watts Transportation LLC. ("Applicant"), for DANCING VINE as a trademark for wine ("Applicant's Goods"), published for opposition in the Official Gazette of December 20, 2005, the time to oppose having been extended, Opposer, Hardy Wine Company Limited, a corporation organized and existing under the laws of the country of Australia, located and doing business at Reynell Road, Reynella, South Australia, Australia 5161, believes that it will be damaged by the registration of the alleged mark shown in Application Serial No. 78589830 and opposes the registration under the provisions of 15 U.S.C. §1063 (Trademark Act of 1946, Section 13).

As grounds of opposition, it is alleged that:

1. Opposer is the owner of the mark WALTZING VINES ("Opposer's Mark") as a trademark as applied to wines directed to wholesale and retail consumers.
2. Opposer is now and for many years has been trading as and known by Opposer's Mark, identifying Opposer as the source of wines ("Opposer's Goods"), goods identical to Applicant's Goods, offered or intended to be offered under its alleged mark DANCING VINE.

3. Opposer is now and has been, for many years prior to any date which may be claimed by Applicant, engaged in the sale of Opposer's Goods under Opposer's Mark.

4. Since long prior to any date which may be claimed by Applicant, Opposer on its own behalf has been, and is now engaged in the sale of Opposer's Goods under Opposer's Mark in interstate commerce.

5. Opposer is the owner of, inter alia, U.S. Trademark Reg. No. 2999135 for WALTZING VINES pursuant to 37 CFR 2.122(d), which is in good order, and in the name of and owned by the Opposer:

6. The use by Opposer of the Opposer's Mark for Opposer's Goods alleged herein, is long prior to any date which may be lawfully claimed by Applicant, and Opposer has priority.

7. Opposer's Mark has been in continuous, open, and notorious use in the United States prior to any date which may be claimed by Applicant.

8. Opposer's Mark has been advertised/promoted in the United States prior to any date which may be claimed by Applicant.

9. Upon information and belief, Applicant distributes and sells or intends to distribute and sell its goods through the same channels of trade as Opposer, and direct its respective goods to the same ultimate consumer as Opposer.

11. The Opposer's Mark and Applicant's DANCING VINE mark are confusingly similar when applied to the goods of the parties.

12. Applicant's mark DANCING VINE is an apt alternative designation for Opposer's Mark (WALTZING VINES).

13. The goods of Applicant and Opposer are identical, and Applicant's use of DANCING VINE in connection with its goods is without the consent or permission of Opposer.

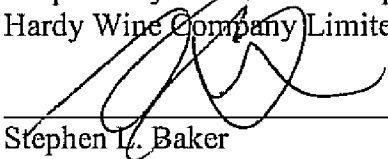
14. Since Opposer owns Opposer's Mark by virtue of prior use, mistake or deception as to the source of origin of the goods will arise and will injure and damage the Opposer and its goodwill.

15. The registration of the mark DANCING VINE to Applicant will cause the relevant purchasing public to erroneously assume and thus be confused, misled, or deceived, that Applicant's goods are made by, licensed by, controlled by, sponsored by, or in some way connected, related or associated with Opposer, all to Opposer's irreparable damage.

16. Opposer believes that it is and will be damaged by registration of the mark applied by Applicant.

WHEREFORE, Opposer prays that the application for registration of DANCING VINE, Serial No. 78589830, filed on March 17, 2005, be denied and that this Opposition be sustained.

Dated: February 21, 2006

Respectfully submitted for Opposer
Hardy Wine Company Limited
By: 
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